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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

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JAMES H. McKENNEY,
Clerk.

No. 627. 240

IN THE MATTER OF JOHN W. BALLMAN.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION.

Brief for the Appellant on the Motion to Advance.

LAWRENCE MAXWELL, JR.,
THOMAS F. SHAY,
MILLER OUTCALT,
Counsel for Appellant.

WASHINGTON, D. C., JUDD & DETWEILER (INC.), PRINTERS. 15706

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This case involves new and important questions, not heretofore passed upon by the court, under the fourth amendment of the Constitution of the United States, which provides that "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated," and under the fifth amendment, which provides that no person "shall be compelled in any criminal case to be a witness against himself," and under section 860 of the Revised Statutes, which provides that "no pleading of a party, nor any discovery or evidence obtained from a party or witness by means of a judicial proceeding in this or any foreign country shall be given in evidence, or in any man-

ner used against him or his property or estate, in any court of the United States, in any criminal proceeding, or for the enforcement of any penalty or forfeiture."

The appellant claims that all of these fundamental guaranties have been ignored in the proceedings resulting in the commitment for contempt from which he seeks relief through this appeal. We cannot assent to the statement of the solicitor general that the facts are sufficiently shown in the opinions of Judge Lurton. What we conceive to be among the most important questions in the case are not even noticed, much less considered, in those opiuions, and the facts relating thereto are not stated.

If the case is advanced we request sufficient time, after the record shall have been printed, for the thorough preparation of the arguments and for the orderly exchange of briefs, in accordance with the rules of the court adopted for the purpose of securing careful preparation of all cases brought before the court, and especially those involving the construction or application of the Constitution of the United States.

Respectfully submitted.

LAWRENCE MAXWELL, JR.,
THOMAS F. SHAY,
MILLER OUTCALT,
Counsel for Appellant.